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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/666,284 . 09/18/2003 Charles Leu 9037

25859 7590 10/25/2005

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EXAMINER

CALEY, MICHAEL H

ART UNIT

PAPER NUMBER

2871

DATE MAILED: 10/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/666,284

Applicant(s)

LEU ET AL.

Examiner

Michael H. Caley

Art Unit

2871

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 October 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☒ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 3. NOTE: Amendment to claim 15 requiring that the diffusion plate define at least first and second types of regions formed therein has not been previously considered. The new combination of limitations requires further search and consideration for proper examination.

Continuation of 11. does NOT place the application in condition for allowance because:

Regarding Applicant's request that the finality of the second Office Action be withdrawn, the examiner maintains the finality of the rejection on the basis that the new ground of rejection was necessitated by amendment. Claim 15 as originally presented was drawn to multiple diffusion plates defining two regions and was interpreted as such (see first Office Action mailed on 3/8/05), whereas the claim as amended was drawn to two of such regions being within a single diffusion plate. Furthermore, the term "greater" carries a different scope than the term "better" as used in the amended claim.

Regarding Applicant's traversal of the rejection of claim 9-12 and 16, Applicant contends that the diffusion board disclosed by Morohashi cannot be workably combined with the diffusion board disclosed by Yokoyama on the basis that the references disclose "opposite" distributions and "manifestly different" construction materials. The examiner, however, disagrees with Applicant's conclusion regarding the combinability of the references.

Morohashi discloses all of the elements of claim 9 except for the intensified diffusion section (area B) as having a refractive index higher than that of the ordinary diffusion section (A). Yokoyama teaches an alternative method of creating an intensified diffusion section (E2 or E3) and ordinary diffusion section (E1) by varying the refractive index of the individual sections (Column 2 line 58 - Column 3 line 6, Column 4 lines 1-12). The examiner proposes applying the method of creating intensified and ordinary diffusion sections taught by Yokoyama in the configuration as shown by Morohashi as motivated by reasons explained in the rejection.

Although Yokoyama shows the intensified diffusion sections as further away from the light source whereas Morohashi shows them as closer, these arrangements cannot be seen as "opposite" and in no way teach away from the proposed modification. Yokoyama discloses an edge lit light source which operates differently than the configuration shown by Morohashi, but may still teach a different type of scattering medium.

The examiner proposes replacing the dot scattering method disclosed by Morohashi with the refractive index varying method taught by Yokoyama. Both materials work to scatter light with varying scattering abilities. It is agreed that creating a diffusion board from the materials disclosed by Yokoyama would require a different manufacturing process than that disclosed by Morohashi, but the examiner maintains that the combination as proposed could be made with reasonable expectation of success.

Andrew Schechter
ANDREW SCHECHTER
PRIMARY EXAMINER